

J017 Rec'd PCT/PTO 23 APR 2001

DAC

Handwritten initials and signatures, including "PC", "M", "4", and "CBA".

EXAMINER:

GROUP:

APPLICANT: Brian Fristensky et al

SERIAL NO: 09/743,110

FILED: July 2, 1999

FOR: Nonsymbiotic Plant Hemoglobins to Maintain Cell Energy Status

RECEIVED

22 AUG 2001

Legal Staff  
International Division

Commissioner of Patents  
Washington, D.C., 20231  
U.S.A.

Dear Sir:

PETITION TO REVIVE UNINTENTIONALLY ABANDONED NATIONAL PHASE

APPLICATION UNDER 37 CFR 1.137

It is hereby requested that the above referenced national phase entry in USA be revived.

The Transmittal Letter for Designated National Phase Entry in USA, a Voluntary Amendment and the filing fee of \$430.00 was received by the USPTO on January 5, 2001.

The above referenced application was assigned serial no. 09/743,110.

However, upon receipt of a notification of missing parts from the USPTO, we noted that through a docketing error, the 30 month deadline for national phase entry had been docketed as January 6, 2001, rather than January 3, 2001. Specifically, PCT application CA99/00608 claims priority on two applications – US Provisional application 60/091,751, filed July 6, 1998 and Canadian Patent Application 2,242,116, filed July 3, 1998. As can be seen, the US filing date was erroneously used when calculating the 30 month deadline.

This error was apparently also overlooked by the clerk at the USPTO as the application was assigned a serial number rather than being abandoned.


While preparing documents in response to the Notice to File Missing Parts issued by the USPTO on February 7, 2001, the error was noted. We contacted the PCT Help desk at the USPTO to determine if the intervening days had possibly been "dies non" at the USPTO and the application was not abandoned for that reason. We also wanted to determine how best to go about reinstating an application that had not been classified as abandoned by the USPTO. The clerk at the PCT Help Desk promised to look into the situation and return our call. When no further information was received from the PCT Help Desk we elected to proceed with reinstating the application to the best of our ability.

As can be seen, the filing fee was paid when the application was filed, clearly indicating that applicants intended to pursue this application and that we believed that we were filing the application in good time. As such, the delay in paying the filing fee for National Phase Entry from January 3 to January 5 was clearly unintentional.

In view of the foregoing, it is requested that the application be reinstated. Enclosed is the fee for reinstatement as Unintentionally Abandoned and the Petition Fee of \$620 (Small Entity).

Respectfully submitted,

Brian Fristensky et al

Per:   
Michael R. Williams  
Registration No: 45,333

April 11, 2001

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